

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07CV308-03-MU

WILLIE REESE,)
)
 Plaintiff,)
)
 v.)
)
 Alcohol, Tobacco, Firearms & Explosives)
 (ATF&E); Charlotte Mecklenburg Police)
 Department)
)
 Defendants.)
 _____)

ORDER

THIS MATTER comes before the Court on Petitioner's motion for refund of overpayment of filing fees filed March 3, 2010. (Document No. 19.)

On August 2, 2007 Plaintiff filed a Complaint under 42 U.S.C. § 1983; Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1981); and 28 U.S.C. § 1331. (Doc. No. 1.) Plaintiff did not submit a filing fee or an application to proceed in forma pauperis with his Complaint. By Order dated August 7, 2007, the undersigned dismissed Plaintiff's case for failure to state a claim for relief. (Doc. No. 2.) On August 10, 2007 Plaintiff submitted \$100.00 toward the \$350 filing fee for this case and also filed a Motion to proceed in forma pauperis. (Receipt No. 38318 and Doc. No. 5.) On August 15, 2007, Plaintiff filed a Notice of Appeal of this Court's Order dismissing his case in the Fourth Circuit Court of Appeals. (Doc. No. 6.) The Fourth Circuit granted Plaintiff's application to proceed in forma pauperis in that Court. (Doc. No. 12.) It appears that Plaintiff has since paid the entire \$455.00 filing fee for his appeal in the Fourth Circuit. (Doc. No. 16.)

By way of the instant motion, Plaintiff seems to asking for a refund on the \$100.00 he sent

to this Court toward the \$350.00 filing fee because this Court dismissed his case almost immediately after he filed his Complaint. Plaintiff is confused. Whether this Court dismisses a case on initial review or the case proceeds through trial, the Court charges a \$350.00 filing fee which must be paid. In this case, Plaintiff's \$100.00 went toward the \$350.00 filing fee leaving a balance of \$250.00. There has been no overpayment, therefore there can be no refund. The \$455.00 filing fee in the Fourth Circuit Court of Appeals is a separate filing fee from the \$350.00 filing fee charged in this Court.

Plaintiff's motion for a refund of overpayment of filing fees is without merit and is denied.

SO ORDERED.

Signed: March 5, 2010

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

